UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ERIC CHRISTIAN,

Plaintiff

v.

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ERIC HONEA, et al.,

Defendants

Case No.: 2:19-cv-00476-APG-VCF

Order Accepting Report and Recommendation and Dismissing Case

[ECF Nos. 1, 4, 6, 7]

On April 5, 2019, Magistrate Judge Ferenbach recommended that I dismiss this case and deny plaintiff Eric Christian's application to proceed in forma pauperis as moot. ECF No. 4 at 1- $10\|2$. Christian filed an objection. ECF No. 5. He also filed a motion for "leave to proceed" and a second application to proceed in forma pauperis. ECF Nos. 6, 7.

I have conducted a de novo review of the issues set forth in the Report and 13 Recommendation under Local Rule IB 3-2. Judge Ferenbach's report sets forth the proper legal 14 analysis and the factual basis for the decision, and I accept and adopt it as my own. Therefore, I 15 will dismiss this complaint. In doing so, I deny Christian's applications to proceed in forma 16 pauperis and motion for leave to proceed (ECF Nos. 1, 6, 7) as moot.

Christian incorrectly contends in his objection that his complaint can be viewed as a 18 habeas petition. If Christian wants to file a habeas petition, he may do so by filing a habeas petition under the applicable rules and statutes, not by filing a civil rights complaint under 42 U.S.C. § 1983.

I HEREBY ORDER that the Report and Recommendation (ECF No. 4) is accepted. Plaintiff Eric Christian's complaint is **DISMISSED** without prejudice to refile should Christian's criminal convictions later be invalidated.

I FURTHER ORDER that Christian's applications to proceed in forma pauperis (ECF 2 Nos. 1, 7) and motion for leave (ECF No. 6) are DENIED as moot. I FURTHER ORDER the clerk of the court to enter judgment accordingly and close this 4 case. DATED this 3rd day of December, 2019. ANDREW P. GORDON UNITED STATES DISTRICT JUDGE